

STATE OF WASHINGTON

DICK MARQUARDT
INSURANCE COMMISSIONER
D STATE FIRE MARSHAL



CHIEF DEPUTY INSURANCE COMMISSIONER

OFFICE OF

INSURANCE COMMISSIONER

B U L L E T I N

REPLY TO
OLYMPIA OFFICE
INSURANCE BUILDING
OLYMPIA, WASHINGTON 98504
753-7300, AREA CODE 206

No. 78 - 8

September 15, 1978

Subject: A SET OF FACTS CONSTITUTING A VIOLATION OF THE REBATING
AND ILLEGAL INDUCEMENT STATUTES

The penalty for violating the rebating statute (RCW 48.30.140) or the illegal inducement statute (RCW 48.30.150) is mandatory revocation of license with no possibility of reinstatement for one year. Because of the severity of penalty, we want to advise everyone of an opinion issued to us by the attorney general on September 7, 1978.

The opinion dealt with the following factual situation:

A firm licensed as an insurance agent and broker specializes in the design, installation and management of pension and profit sharing plans. Insurance may or may not be involved. If it is, the firm may or may not procure the insurance. If it does procure the insurance and a commission results, it reduces its fee for the pension or profit sharing services by one-half. If there is no insurance, or if the firm does not receive a commission for any insurance, the full fees are charged.

The conclusion of the attorney general's office is that the foregoing situation constitutes a violation of both the rebating and illegal inducement statutes.

Under the rebating statute, half the fee for installing and servicing the pension or profit sharing plan is foregone by the licensee--that is, rebated--in exchange for the commission on insurance.

Under the illegal inducement statute, the savings of one-half of the fees for designing, installing and managing the pension or profit sharing plan would be a "special return" to the client and would pose an "inducement" to the client to obtain its insurance from the agent offering such return rather than from another agent or broker.

While the attorney general's opinion addresses a particular set of facts, the principle involved is applicable to other situations. Any transaction involving the purchase of insurance is suspect if discounts, abatements or reductions of premiums, or other benefits, valuable considerations or inducements flow to the insured, directly or indirectly, as a result of taking insurance.

DICK MARQUARDT
Insurance Commissioner